

**GIBSON DUNN**

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 2/15/11

Gibson, Dunn & Crutcher LLP  
200 Park Avenue  
New York, NY 10166-0193  
Tel 212.351.4000  
www.gibsondunn.com

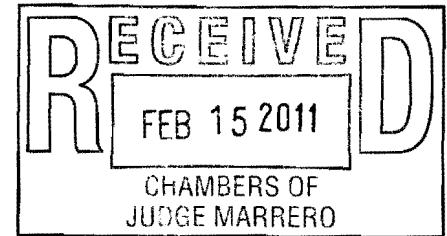
Mitchell A. Karlan  
Direct: 212.351.3827  
Fax: 212.351.5254  
MKarlan@gibsondunn.com

Client: L 36380-00001

February 15, 2011

BY FACSIMILE (212-805-6382)

Hon. Victor Marrero  
United States District Judge  
Southern District of New York  
Daniel Patrick Moynihan Courthouse  
500 Pearl Street, Suite 660  
New York, New York 10007-1312



Re: Gurung v. Malhotra, 10-CIV-5086

Dear Judge Marrero:

We are counsel for the Plaintiff in this action. I write in response to your Order issued on February 10, 2011 regarding service of process on the Defendants.

On December 10, 2010 the Court entered an Order granting Plaintiff leave to effect service by means other than through the Hague Service Convention because, as the Court found "[t]he Defendants are aware of the lawsuit, have a copy of the Complaint, and are evading service."<sup>1</sup> Pursuant to this Order, Plaintiff is in the process of completing the steps enumerated therein and has already delivered PDF copies of the Summonses and Complaint to the work e-mail address of Neena Malhotra and hard copies by certified mail, return receipt requested, to the Defendants care of the Embassy of India in the United States and the Indian Permanent Mission to the United Nations.<sup>2</sup> Plaintiff has also completed the four weeks of publication of the Summonses and a notice in the *Business Standard* in India and is imminently beginning publication of the same in the *Hindustan Times*. All components of service listed in the Order will likely be completed within the next six weeks.

We understand you received a letter, dated February 10, 2011, from Ashok Kumar of the Ministry of Law & Justice in India. Plaintiff never received a courtesy copy of this letter. In fact, Plaintiff only learned of such correspondence through the Court's Order that same day.

<sup>1</sup> A copy of the December 10, 2011 Order is appended to this letter.

<sup>2</sup> On December 10, 2010 hard copies were sent to the Defendants care of the Embassy of India and the Indian Permanent Mission to the United Nations. Return receipts for both mailings have been received. On December 14, 2010 PDF copies of all relevant documents were sent to Ms. Malhotra's work email address, [dursouth@mea.gov.in](mailto:dursouth@mea.gov.in).

## GIBSON DUNN

Judge Victor Marrero  
February 15, 2011  
Page 2

The Defendants have yet to date to enter an official appearance or answer the Complaint in this matter. This letter from the Indian Government is not a responsive pleading, an appearance by either defendant, a motion to intervene, or a motion for leave to appear as amicus. Thus, Plaintiff submits that no response on the substance of the letter should be required at this time. If and when the Defendants appear and present legal arguments on any of these points raised in their letter, we will respond. However, this is not the proper way for the Defendants to state their position. Additionally, the Ministry of Law & Justice is not a named Defendant in this action. If they would like to intervene on behalf of the Defendants, they should make the appropriate motion to do so.

We respectfully request the Court to disregard the letter dated February 10, 2011 by Mr. Kumar and permit the Plaintiff to continue satisfying the service requirements authorized by this Court in December.

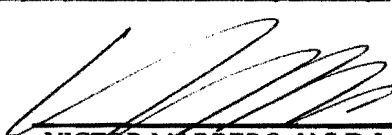
Respectfully,



Mitchell A. Karlan

MAK/sig

cc: Neena Malhotra  
Jogesh Malhotra

The Clerk of Court is directed to enter into the public record of this action the letter above submitted to the Court by	
<u>plaintiff</u>	
<b>SO ORDERED.</b>	
<u>2-15-11</u>	
DATE	VICTOR MARRERO, U.S.D.J.